

Poor Law Guardians (Ireland) Bill.

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Clause.

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B I L L

TO

Amend the Law relating to Poor Law Guardians in Ireland. A.D. 1890.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

5 **1.** This Act may be cited for all purposes as the Poor Law Guardians Election (Ireland) Act, 1890. Short title.

2. This Act shall not extend to England or Scotland. Application of Act.

3. In this Act, except where the context otherwise requires, the following words and expressions shall have the meaning hereby
10 assigned to them respectively; that is to say, Definitions.

 " Poor law election " means any election of a guardian or guardians for any electoral division or ward, or any district of electoral divisions in a union for the relief of the destitute poor, within the meaning of the Act of the first and second
15 years of the reign of Her present Majesty, chapter fifty-six, and the Acts amending same:

 " Local Government Board " means the Local Government Board for Ireland:

 " Electoral division " includes " ward " or district of electoral
20 divisions:

 " Agent " includes counsel or solicitor:

 " Days " means clear days, exclusive of Sunday, Good Friday, and Christmas Day:

 " Prescribed " means prescribed by order made and issued by the
25 Local Government Board pursuant to this Act.

Any words or expressions in this Act which are not hereby defined, and are defined in the said Act of the first and second years of the reign of Her present Majesty, chapter fifty-six, or in any Act amending said Act, shall, unless there is something in the

[Bill 22.]

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A.D. 1890. context of this Act repugnant thereto, have the same meaning as in the last-mentioned Act or Acts, and the said Acts and this Act shall be construed together as one Act.

PART I.

POOR LAW ELECTIONS.

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Local
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Provisions of
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Certain sec-
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porated in
order.

4. When any person is elected to fill a casual vacancy in the office of guardian, he shall continue in office only so long as the person in whose place he is elected would have continued in office if such vacancy had not occurred.

5. The votes at every contested poor law election shall be given by ballot, in manner provided in the case of parliamentary and municipal elections by the second section of the Ballot Act, 1872.

6. On or before the *thirty-first day of December one thousand eight hundred and ninety* the Local Government Board shall by order under their seal prescribe the manner in which poor law elections shall, after the commencement of this Act, be conducted, having regard to the provisions of this Act, and may from time to time thereafter by further order amend or vary such order, or any existing order, or may rescind such order or any existing order and issue a new order: Provided, however, that the enactments applying to other orders and general rules of the Local Government Board shall also apply to orders made under this section. Every such order shall direct the manner in which the expenses of elections shall be defrayed.

7. In drawing up any such order as aforesaid, the Local Government Board shall have regard to the provisions of the Ballot Act, 1872, and the schedules thereunto annexed, and, so far as such provisions are applicable and convenient, shall adopt same, and apply them, with the necessary modifications, to poor law elections under this Act, but no such order shall be impeachable for any alleged non-compliance with the provisions of this section.

8. The Local Government Board may embody in any such order the second, third, fourth, sixth, ninth, twelfth, thirteenth, and twenty-fourth sections of the Ballot Act, 1872, or some or any of them (save so much of said second section as relates to cases where an equality of votes is found to exist between any two candidates),

with such modifications as they may think necessary ; and any such section when so embodied shall apply to poor law elections, and shall have the same force and effect as if herein expressly enacted.

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9. After the commencement of this Act no ratepayer shall have power to appoint any person to vote as his proxy at any poor law election, and every ratepayer desiring (where necessary) to give a statement of his claim to vote or to vote at any election, must himself give such statement, and must himself attend in person to vote at the place appointed for the polling.

Voters to
vote in
person.

10. At the prescribed time before the day fixed for the polling at any poor law election, the returning officer shall prepare in the prescribed manner a list of the ratepayers entitled to vote at such election, and shall sign the same, and shall publish in the prescribed manner a notice stating that such list has been prepared, and when and where it may be inspected by any ratepayer. Every such list shall state the number of votes to which each voter is entitled, and shall contain such other particulars as may be prescribed, and a separate list shall be prepared for each electoral division. The list shall be kept in such convenient place as may be prescribed for six days after the publication of said notice, and during such six days shall be open to the inspection of any ratepayer, or his agent, between the hours of *ten* in the forenoon and *four* in the afternoon. At any time prior to but not after the signing of the register of voters by him as herein-after mentioned, the returning officer may add to, excise from, alter, or amend the list of voters, and may add thereto the name of any ratepayer originally omitted therefrom because of the nonpayment of any poor rate, on being satisfied that such poor rate has since been paid.

Lists of
voters to be
prepared.

11. The returning officer shall appoint a day or days, within the prescribed limits of time before the day fixed for the polling, to hear the claims of persons whose names have been omitted from any such list, and who claim to have their names inserted therein, or who claim to be entitled to a larger number of votes than the number stated in the list ; and of the day or days so fixed shall publish a notice in the prescribed manner. On the day or days so fixed the returning officer shall sit at such convenient place as may be prescribed, between the hours of *nine* in the forenoon and *six* in the afternoon, and shall hear any ratepayer, or his agent, making any such claim, and, if satisfied of the validity thereof, shall allow same, and insert the name of such ratepayer in any such list or lists, or state correctly therein the number of votes to which any such ratepayer is actually entitled.

A day to be
fixed to hear
claims of
persons
omitted from
lists.

A.D. 1890.

Register of
voters to be
prepared.

12. At the prescribed time before the day fixed for the polling the returning officer shall from such lists, so amended, prepare in the prescribed manner and sign the register of voters for such election, and when so signed the register shall not afterwards be altered. The register shall state the number of votes to which each voter is entitled, and shall contain such other particulars as may be prescribed, and a separate register shall be prepared for each electoral division, and every returning officer shall, on demand, furnish to any person requiring the same a copy of the register for any electoral division at a charge not exceeding *one shilling* for each hundred names or fraction of a hundred names contained therein. 5

Register to
be conclu-
sive at
polling.

13. At any poor law election a person shall not be entitled to vote unless his name is on the register of voters, and every person whose name is on such register shall be entitled to the number of votes set opposite his name therein, and to vote accordingly, 15 provided that on a petition as hereinafter provided the register shall not be conclusive, and its correctness in any particular may be questioned.

PART II.

POOR LAW ELECTION PETITIONS.

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Poor law
election may
be ques-
tioned by
petition.

14. The election of any person at a poor law election for an electoral division may be questioned by petition before the county court for the county and division within which the workhouse for the union of which such electoral division forms part is situate (hereinafter referred to as the "court") on any one or more of the following grounds; that is to say, 25

- (a.) That such person was not duly elected by a majority of lawful votes:
- (b.) That such person was at the time of the election not duly qualified, or was disqualified to be a guardian: 30
- (c.) That the returning officer improperly refused to receive or act on the nomination of some other person, or improperly omitted to insert in the ballot paper the name of any person duly nominated:
- (d.) That the provisions of this Act or of any order of the Local Government Board for the time being in force relating to poor law elections were violated or were not observed in some material particular. 35

(e.) That names were improperly included in the register of voters, and that persons not entitled to do so were in consequence permitted to vote and voted at the election, or that names were improperly omitted from the register, or that the number of votes allowed to any voter was greater or less than the number such voter was legally entitled to: Provided that the court shall not avoid any election on the grounds of any such error, inclusion, or omission, unless satisfied that the result of the election might have been affected thereby:

A.D. 1890.

(f.) That the office of guardian to fill which the election was held was not actually vacant at the time of such election:

(g.) That the election was avoided by undue influence, corrupt practice, or illegal practice, within the meaning of those expressions as used in the Corrupt and Illegal Practices Prevention Act, 1883.

15. A petition may be presented by any six ratepayers of the electoral division, or by a person qualified at the time of the election to be a guardian and alleging himself to have been a candidate at the election, or to have been duly nominated as a candidate, or by two or more such persons. It shall be signed by the petitioner or petitioners, and it shall be presented to the court within fourteen days after the day on which the poll shall have been declared. Within three days after such presentation, the petitioner or petitioners shall serve a notice of same and a copy of the petition on the person or persons against whose election the petition is presented (herein-after referred to as the "respondent"). Two or more persons may be made respondents to the same petition, and their cases may be tried at the same time, but such petition shall, nevertheless, be deemed to be a separate petition against each respondent.

Procedure on petition.

16. Election petitions shall be tried by the court without a jury at the quarter sessions held next after the expiration of twenty-one days from the date of the presentation of same. They shall be tried in open court immediately after the criminal business of the sessions has been disposed of, and the court may adjourn the trial from time to time as may seem expedient. At the conclusion of the trial the court shall determine whether the person whose election is complained of, or any or what other person, was duly elected, or whether the election was void, and shall forthwith certify such determination in writing to the Local Government Board, and upon such certificate being given such determination shall be final to all intents and purposes as to the matters at issue on the petition. In case the court shall certify that the election

Manner in which petition shall be tried.

A.D. 1890. was void, the Local Government Board shall, without any application from the board of guardians, or other preliminary proceeding, forthwith order a new election to take place. On the trial of a petition claiming that some person other than the respondent was elected, the respondent may give evidence to prove that such person 5 was not duly elected, in the same manner and on the same grounds as if he had presented a petition against the election of such person.

Special case
on question
of law.

17. If on the hearing of any election petition any question of law arises, the determination of which might affect the result of the election, the court may of its own motion, and shall on the 15 application of any of the parties to the petition, state such question of law in a special case, and refer the same for the consideration and decision of Her Majesty's Court of Appeal in Ireland. The said special case shall be heard and decided by the Court of Appeal (which, if necessary, may order the same to be amended), and the 20 decision of the said Court of Appeal thereon shall be final and conclusive to all intents and purposes, and shall be certified to the Local Government Board.

Powers of
court on
petition.

18. On the trial of an election petition under this Act, the court shall have the same powers, jurisdiction, and authority with refer- 25 ence to same and the proceedings therein as it would have if such petition were an ordinary civil bill within its jurisdiction; provided that the court shall have power to impose a fine not exceeding *fifty pounds* on any person summoned to attend as a witness on the hearing of such petition, and who neglects or refuses to attend such 30 hearing. On the hearing of a petition, witnesses shall be sworn in the same manner as witnesses at the hearing of an ordinary civil bill, and shall be liable to the same penalties for perjury. It shall be the duty of the returning officer to attend the court on the hearing of the petition, and then and there to produce the 35 rate book, list, and register of voters for the electoral division in question, as also all statements of claim to vote in such electoral division, and the books in which same are registered.

Withdrawal
and abate-
ment of
petition.

19.—(1.) A petition may be withdrawn by leave of the court, but not otherwise; and if on the hearing of the application for with- 40 drawal any person or persons who might have been a petitioner or petitioners in respect of the election to which the petition relates shall apply to the court to be substituted as a petitioner or peti- tioners instead of the petitioner or petitioners so desirous of with- drawing, the court shall grant such application, and the petition 45 shall proceed accordingly. Where the petition is presented by more than one petitioner it shall not be withdrawn without the consent of all.

(2.) A petition shall not abate save by the death of all the petitioners or all the respondents, if more than one. If on the abatement of a petition by the death of a sole petitioner or of all the petitioners any person or persons who might have been a
 5 petitioners or petitioners in respect of the election to which the petition relates shall apply to the court to be substituted as a petitioner or petitioners, the court shall grant such application, and the petition shall proceed accordingly.

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(3.) A substituted petitioner shall stand in the same position, as
 10 nearly as may be, and be subject to the same liabilities as the original petitioner.

20. A petition under this Act complaining of no return at any poor law election may be presented to the court by any qualified person claiming to have been duly elected thereat, and shall be
 15 deemed to be an election petition within the meaning of this Act, and the court shall accordingly determine whether the petitioner, or any and what other person, was duly elected; and in case the court shall certify that no person was duly elected, the Local Government Board shall forthwith order a new election to take
 20 place. The returning officer and every person, other than the petitioner, duly nominated as a candidate at such election, shall be named as respondent in any petition under this section. A petition under this section shall not abate save by the death of the petitioner.

Petition may be presented complaining of no return.

21. All costs, charges, and expenses of and incidental to the presentation of a petition under this Act, and to the proceedings consequent thereon, including the proper expenses of witnesses, shall be defrayed by the parties to the petition in such manner and in such proportions as the court may determine. Where a returning officer is made respondent to a petition he shall not be ordered to pay the petitioners costs, except the court shall be of opinion that he was guilty of negligence or improper conduct in the matter of the election or petition. The returning officer's costs of appearing as respondent and otherwise incidental to an election petition
 30 (save such costs as he may be ordered to pay as aforesaid in consequence of having been guilty of negligence or improper conduct) shall be defrayed out of the poor rates in the prescribed manner.

Costs on petitions.

22. Where a candidate who has been declared elected as guardian at a poor law election is on petition declared not to have been duly
 40 elected, acts done by him as guardian before the time when the result of such petition has been certified to the Local Government Board, shall, nevertheless, not be invalidated.

Acts done pending a petition not to be invalidated.

A.D. 1890.
Rules,
stamps,
and costs.

23. For the purposes of this Part of this Act, there shall be incorporated with this Act the following sections of the County Officers and Courts (Ireland) Act, 1877, as the same are amended by any other Act, that is to say:—

Section seventy-nine, relative to rules and orders; 5

Section eighty-three, relative to fees and stamp duties;

Section eighty-four, relative to costs;

And the following sections of the Supreme Court of Judicature Act (Ireland), 1877, so far as they relate to the Court of Appeal in Ireland, as the same are amended by any other Act, that is to say:— 10

Section sixty-one, relative to rules of court;

Section eighty-four, relative to fees.

Repeal of
6 & 7 Vict.
c. 92, s. 23.

24. The twenty-third section of the Act of the sixth and seventh years of the reign of Her present Majesty, chapter ninety-two, shall be and the same is hereby repealed. 15

PART III.

MISCELLANEOUS.

25. After the commencement of this Act, the following provisions shall be enacted and take effect; that is to say,—

(1.) No person under the age of twenty-one years shall be permitted to vote at any poor law election: 20

(2.) In every case of vacancy in the office of elective guardian in any poor law union the Local Government Board shall, within a reasonable time, which shall in no case exceed three months, order a fresh election to take place to fill such vacancy: 25

(3.) No justice of the peace shall be qualified to be an ex-officio guardian of any poor law union unless he is a ratepayer of such union:

(4.) Any ratepayer in a poor law union rated at or exceeding twelve pounds shall be qualified to be elected as guardian for any electoral division in such union: 30

(5.) The number of ex-officio guardians of any poor law union shall in no case exceed one-third of the number of guardians to be elected by the ratepayers of such union, and, in every case in which the number of justices qualified to be such ex-officio guardians shall exceed one-third of the whole number of guardians to be elected by the ratepayers, the justices to serve as ex-officio guardians shall be selected from among the qualified justices at the prescribed time after the passing of 35

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this Act, and in every third year subsequently, in the manner provided by the twenty-fourth section of the said Act of the session of the first and second years of the reign of Her present Majesty, chapter fifty-six; A.D. 1890.

5 Casual vacancies occurring among the ex-officio guardians shall be filled up in like manner at a meeting convened for the purpose at the prescribed time:

(6.) No ratepayer shall be entitled at any poor law election to more than eighteen votes for each of the number of candidates to be elected in any electoral division.

10 **26.** Nothing in this Act contained shall abridge or take away any power previously vested in the Local Government Board of regulating poor law elections in any manner not inconsistent with this Act, and the powers conferred by this Act shall be deemed to be in addition to such existing powers. *Saving existing powers of Local Government Board.*

27. This Act shall commence and come into operation on the first day of February one thousand eight hundred and ninety-one, save the fifth section thereof, which shall commence and come into operation forthwith. *Commencement of Act.*

**Poor Law Guardians
(Ireland).**

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B I L L

**To amend the Law relating to Poor
Law Guardians in Ireland.**

*(Prepared and brought in by
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